

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY

FINAL APPROVAL OF NOVEMBER 22, 2004 REVISION

FIELD OPERATIONS MANUAL FOR AIR INSPECTORS
Air Standard Operating Procedures (ASOPs)

ASOP-13: TAX CERTIFICATION

Per Collaboration Process Development Memo Dated July 20, 2000

- Revision coordinated by Manager, Office of Air Compliance Coordination
- Reviewed by regional Air Compliance Managers and designees
- Presented to Senior Management Team for review and comment
- Finalized by Manager, Office of Air Compliance Coordination



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11/22/04
Date

- Approved by Division Director of Air Programs



John M. Daniel, Jr.

11/22/04
Date

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DEPARTMENT OF ENVIRONMENTAL QUALITY**

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**ASOP – 13
TAX CERTIFICATION**

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I. PURPOSE:

The purpose of this ASOP is to assist Air Division personnel in determining whether certain equipment and facilities utilized for the abatement or prevention of air pollution qualify for special tax treatment as provided by §58.1-3660 of the Virginia tax statutes. This ASOP addresses air pollution only and does not address any other provisions of Virginia or federal tax law.

II. AUTHORITY

The Code of Virginia at §58.1-3660 provides that, with respect to air pollution matters, the State Air Pollution Control Board is the “*state certifying authority*” which certifies to the Department of Taxation whenever such items meet the definition of “*certified pollution control equipment and facilities.*” The Code further defines the term “*certified pollution control equipment and facilities,*” declares that such items are a separate class of property for taxation purposes, and provides that such items may be exempted from various taxes by various governing bodies. The Department of Environmental Quality acts on behalf of the Air Pollution Control Board by delegation of authority. See Code of Virginia §§10.1-1307.2.B, 10.1-1186 and Virginia Administrative Code §9 VAC 5-170-180. Within DEQ the authority to conduct pollution control equipment and facility certifications has been delegated to the Regional Office staff.

III. GENERAL POLICY CONSIDERATIONS

A. Scope of DEQ Authority

Title 58.1 of the Code of Virginia contains several provisions for exempting various kinds of property from taxation, including stormwater management facilities, solar energy equipment, recycling equipment, cogeneration equipment, and air and water pollution control equipment. This ASOP applies only to devices that abate, prevent, or control airborne contaminants, as further described at §58.1-3660.

Devices that abate, prevent, or control airborne contaminants but which are otherwise fully outside the scope of DEQ’s authority under Virginia air pollution control laws, regulations and programs are not considered to be “in conformity with the state program or requirements for abatement or control of... atmospheric pollution or contamination” and thus are not eligible for tax exempt status. Examples of such devices include processes that vent or discharge back into the workplace, indoor air purifiers and other equipment whose emissions are not or cannot be regulated by DEQ.

B. Consumable and Non-durable Goods

The phrase “*real or personal property, equipment, facilities or devices*” included in the definition of “*certified pollution control equipment and facilities*” at

§58.1-3660 B will be construed to mean only items that are of a durable and tangible nature. Items that are not durable or are not tangible, such as but not limited to the following list, are not considered to be “facilities”, “equipment” or “devices” or within legislative intent and thus are ineligible for tax exempt status under §58.1-3660 and this ASOP: consumable items (such as chemicals, electricity, fuels, single-use supplies, disposable items); fees (such as environmental permit fees, emission fees, building fees); and services (such as labor charges, consulting fees).

C. Statute Of Limitations

There is no statute of limitations on DEQ’s ability to certify pollution control equipment and facilities. Thus it is inappropriate to consider the timeframe in which pollution control equipment or facilities were acquired or constructed. Under Virginia tax code, certification is based solely on the actual purpose and use of the equipment and facilities. The final decision regarding a taxpayer’s ability to seek a refund or correction of a tax assessment, as well as the value of the affected equipment and facilities, rests solely with the Department of Taxation or local governing body and is not to be considered during DEQ’s evaluation of an application for certification.

D. Burden of Proof

Because Virginia code provides exemptions from certain tax provisions only when certain conditions are met, the burden of proof lies with the person or entity requesting certification of the exemption to demonstrate that each provision of the Code of Virginia at §58.1-3660 is satisfied, including that the subject equipment/facility was constructed or acquired in conformity with the Virginia program or requirements for abatement or control of air pollution. It is the responsibility of the applicant to know and comply with all of the Virginia requirements that bear on the facility (environmental and otherwise). See the definition of “in conformity” at Section IV and the conformity example at Section VI for further explanation. Additionally, requests of questionable validity, or containing incomplete information, or which cannot be readily verified as true or accurate, should generally be denied if the applicant does not adequately substantiate the request after being asked for more information, and an explanation of the reason for denial should be provided. Refer to Section V.C below for the timeframes for processing an application and for requesting additional information.

E. Document Certification

The Virginia Regulations for the Control and Abatement of Air Pollution at 9VAC5-20-230 require that all documents submitted to the Department, including permit applications, compliance reports, forms, and emission statements, be signed and certified by a responsible official of the regulated entity. Therefore, all applications for tax exemption certification must be accompanied by a certification signed by an appropriate responsible company official. The suggested Letter of Application template shown in Appendix B contains the required certification

language. It should be noted that DEQ has the authority to request additional information which it believes is necessary to substantiate the request, and follow-up submittals by applicants must likewise contain a signed certification statement.

F. Equipment Cost and Tax Liability Aspects

Under the provisions of the Code of Virginia §58.1-3660 certification of pollution control equipment and facilities is based on the stated function and purpose of the equipment, without regard to cost or value. Therefore, the evaluation of an application for certification must be made by DEQ solely on the basis of the function and purpose as stated by the applicant, and the cost of the air pollution abatement or prevention devices cannot be a factor. When air pollution abatement or prevention devices are integral to other equipment and are not easily separable from a machine, DEQ may grant certification for only that portion of the machine that performs air pollution abatement or prevention functions, and it is the applicant's responsibility to itemize those components of the machine which perform the air pollution abatement or prevention function. The buyer (and the possibly the seller) of such machines may ultimately bear the burden of proof to the Virginia Department of Taxation or other taxing body (*not* to DEQ) that the portion of the machine's total cost on which tax is not being paid is in fact tax exempt.

G. Confidentiality

Because DEQ must provide the Department of Taxation with the applicant's original application in the event that tax certification is granted, DEQ cannot assure that confidential or trade secret information in an application will remain protected. Therefore, any information submitted to DEQ pursuant to a request for tax certification must be deemed to be in the public record and cannot be held confidential. Applications marked "confidential", "trade secret" or similarly should be returned promptly to the applicant with an explanation of this policy and without further processing.

IV. DEFINITIONS

The following terms shall be understood to have the meaning indicated, where the terms appear in §58.1-3660 B of the Code of Virginia and in this ASOP:

Abating, or abatement, means the action of physically removing existing air pollutants such that their release into the ambient environment is reduced in actual amount, degree or intensity.

Application means a request for DEQ certification of certain equipment or facilities as "certified pollution control equipment and facilities" pursuant to §58.1-3660 B of the Code of Virginia. An application must be in written form, must be signed, must contain a document certification meeting the requirements of 9VAC5-20-230, and must contain sufficient information to allow adequate evaluation.

Atmosphere means that portion of the air, external to buildings, to which the general public has access.

Facility means an aggregation of equipment and structures directly connected to such equipment and/or housing such equipment which as a group provides a particular service or function solely related to abating or preventing air pollution. A structure which houses equipment which is not eligible to be certified pursuant to §58.1-3660 B of the Code of Virginia is not itself a facility for the purpose of tax exemption certification.

In conformity means in compliance with and lawful under the air pollution abatement or control laws, regulations and permit requirements governing construction, reconstruction, erection or acquisition of the property. A facility holding a valid air emission permit (when one is required) or a letter of exemption from DEQ, or which does not require a permit under such regulations, for the property shall be considered to be “in conformity” under §58.1-3660. Property that is subject to a Notice of Violation concerning its construction, reconstruction, erection or acquisition shall not be considered to be “in conformity” until such Notice has been resolved.

Pollution means the emission into the atmosphere of substances determined to be air “pollutants,” as that term is defined in the Virginia air pollution regulations at 9VAC5-10-20:

Any substance the presence of which in the outdoor atmosphere is or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interferes with the enjoyment by the people of life or property.

For the purposes of tax exemption certification, water vapor, thermal energy (heat) and acoustic energy (noise) are not air pollutants.

Pollution control equipment means equipment which is not vital to a manufacturing operation or process, except that its use enables the source to conform to applicable air pollution control laws and regulations or to prevent the release of air pollution.

Preventing, or prevention, means the action of precluding the release of air pollution which would otherwise be reasonably known to occur in the absence of the action.

Primarily, or primary, means used in a manner that is (1) essential to the abatement or prevention of air pollution, and (2) not essential to any other non-air pollution abatement aspect of facility operation. Any air pollution abatement or prevention equipment that is specifically required by Virginia air pollution control law, regulation or permit condition is considered to meet the definition of *primarily*.

Property means tangible items that are (1) durable in nature and (2) are not readily, intentionally, or normally expected to be, consumed during operation of the pollution control equipment. Items that are normally or routinely stocked as replacement supplies are generally not considered to be *property* for the purposes of tax exemption.

State program or requirements means all environmental laws, regulations and permit requirements applicable to the equipment or facility at the time in question and enforceable by the Commonwealth of Virginia.

V. PROCEDURE

A. Initial Application

An application for certification of tax exemption must be initiated by another person or entity (the “applicant”) outside of DEQ. The application must contain enough information to permit its complete evaluation against this ASOP and the relevant tax code. A suggested “Letter of Application” template is provided in Appendix B to help ensure that applications are complete. Use of this form is encouraged, but is not mandatory. Any form of application or request is acceptable, provided that the information provided is complete. The applicant must identify in a specific manner in the application those items claimed to perform the primary role of air pollution abatement or prevention. The Letter of Application template should be provided to any person upon request.

B. Evaluation

The application is to be evaluated by DEQ staff within 30 days of receipt to determine completeness and the eligibility of the particular equipment or facilities as “certified pollution control equipment and facilities.” A “Tax Exemption Certification Checklist” is provided in Appendix B to help ensure completeness of the information in the application as well as thorough and consistent review of requests, and to serve as documentation of DEQ’s final decision. Use of the Checklist for evaluation of an application is mandatory under this ASOP. The checklist must be signed by the person performing the evaluation of the application and also by a DEQ employee authorized under DEQ’s “Delegations of Authority” policy for Tax Certifications currently in force.

C. Communication

1. If DEQ determines that the application is incomplete or that certification may be granted for only a portion of the requested items, a Notice of Deficiency is to be sent to the applicant. A response within 30 days should be requested. Upon receipt of the response, the 30-day DEQ evaluation period (see Section V.B above) restarts. If the applicant is unresponsive, or if two Notices of Deficiency have previously been issued for the same application, a Notice of Denial should be issued to the applicant (see Section V.C.3 below).

2. If DEQ determines that the application should be granted in entirety or in part:

a. A Notice of Certification is to be sent to the Department of Taxation, including the original application as well as any other information

subsequently submitted by the applicant that was determined to be essential to the completeness of the application. The Notice of Certification should itself identify the specific items of equipment or facilities that are being certified so that it acts as a stand-alone document and does not rely on any attachment to make its meaning clear. “Partial” certifications may be granted, provided that the Notice of Certification clearly specifies which items in the application are eligible and which are not eligible for tax certification.

b. A copy of the Notice of Certification is to be returned to the applicant. It is not necessary to return a copy of the application to the applicant, provided that the Notice of Certification sufficiently identifies the application so that the applicant clearly understands which application is being approved.

A Notice of Certification is considered final agency action. All pertinent records should be retained as described in Section E below.

3. If DEQ determines that the application should be denied in entirety, a Notice of Denial is to be sent to the applicant. A Notice of Denial is considered final agency action. All pertinent records should be returned to the applicant as described in Section E below.

Templates of all Notices are provided in Appendix B. All such Notices are to be prepared on DEQ letterhead, signed in ink by a DEQ employee authorized under DEQ’s “Delegations of Authority” policy for Tax Certifications currently in force, and sent via regular mail to the applicant within 30 days of receipt of the complete application. Do not use certified mail or any expedited mail service, unless the applicant agrees to pay for the additional postage. As a courtesy, electronic or facsimile copies of Notices may be provided to others for timely notification, but may not substitute for the original, signed, hardcopy Notice.

D. Maximum Processing Timeframes

DEQ’s review and response to an application are to be completed within 30 days in all cases, as set forth below:

Event	Day Number
Receipt of Application	0 (per date-stamp)
Completeness review, completion of Checklist and certification determination by DEQ.	30
If application is incomplete, send <i>Notice of Deficiency</i> . (Restart at new Day 0 upon receipt of new information or amended application.)	30 (Must be sent by the end of the completeness review period)
If application is complete and equipment is tax-exempt, send <i>Notice of Certification</i> .	30 (Must be sent by the end of the completeness review period)

If application is complete and equipment is not tax-exempt, send <i>Notice of Denial</i> . (Restart at new Day 0 upon receipt of a new application for the same equipment.)	30 (Must be sent by the end of the completeness review period)
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E. Recordkeeping

The application, related correspondence (written or electronic) and the Notices are considered to be official government records and are subject to disclosure under the Virginia Freedom of Information Act (VFOIA).

Each Regional Office shall maintain the following records in hardcopy form, at a minimum:

1. During pendency of the application: all correspondence and notes;
2. If the certification is denied: any issued Notices of Deficiency, the final Notice of Denial, and the Certification Checklist, whether partial or complete;
3. If the certification is voluntarily withdrawn: a copy of the DEQ transmittal letter returning the application documents to the applicant (all DEQ working papers are to be discarded);
4. If the certification is granted:
 - a. a copy of the signed, complete application and a copy of any other information subsequently submitted by the applicant that was determined to be essential to the completeness of the application; and
 - b. the original completed Certification Checklist (see Appendix B) that documents the basis for approval of the certification; and
 - c. a copy of the signed Notice of Certification to the Department of Taxation; and
 - d. copies of any interim Notices of Deficiency issued prior to the Notice of Certification.
 - e. Previously submitted incomplete applications which have been superseded in entirety by a complete, stand-alone application, as well as any non-essential correspondence dated prior to receipt of the complete application, should be discarded.

In all cases, to facilitate determination of the number and types of requests for tax exemptions processed by DEQ, each Regional Office shall also maintain the following additional records in either hardcopy or electronic form, at a minimum:

- a. Date of receipt of each complete application;
- b. Name of applicant;
- c. Final certification decision (Certified or Denied)
- d. Date of Certification or Denial by DEQ; and
- e. General type of air pollution control equipment or facility affected.

The above records must be retained in accordance with current agency records retention policy.

VI. EXAMPLES RELATED TO SPECIFIC TERMS AND DEFINITIONS

Italicized words in the examples below have the meaning given in Section IV above. These examples are provided for instructional purposes only and may not apply in all cases, since differences in installation and operating scenarios cannot all be contemplated.

Facility

Company A plans to install a new plating line, exhaust system and a scrubber inside a new building. The plating line is ineligible for air pollution abatement tax exemption, since it is production equipment and thus is not for the *primary* purpose of air pollution *abatement*. The exhaust system is also ineligible, since it is essential to the operation of the production line and also does not itself abate or prevent air pollution. However, the scrubber (with any directly associated feed, drain and control systems) is eligible, since it is used for the *primary* purpose of air pollution *abatement*. The building structure is ineligible, since it is essential to the operation of the production line (which is ineligible) and also does not itself *abate* or *prevent* air pollution.

In conformity

Company B constructs or otherwise acquires equipment which emits air pollutants which requires an air emission permit, but does not apply for or obtain the permit. (The equipment may be purchased directly, or it may be acquired by the purchase of Company X which already owns and operates it.) If the owner of the equipment does not have the required air emission construction and/or operation permit in hand, the equipment is not "in conformity" with the applicable air pollution control laws and regulations and is, therefore, not eligible for tax certification. An application for certification received at such a time must be denied. If the owner subsequently obtains a valid air emission permit and does not appeal it, or obtains a letter of exemption from DEQ (whether voluntarily or as a result of enforcement), the equipment is then deemed as having been constructed or acquired in conformity with the state air program. An application for certification received at that time may then be granted, provided that all other requirements are met. Note that if a permittee has administratively appealed a permit issued by DEQ or has filed a Notice of Appeal for

judicial review, certification must be denied pending final resolution of the appeal. For a new or amended permit, if the time period within which an appeal must be filed has not yet expired (typically 30 days), certification must be temporarily withheld until the appeal period expires without an appeal or notice of appeal.

Primarily

Company C uses a fan to exhaust air emissions from an oven. If the facility installs an add-on control device to the existing oven and fan arrangement, only the add-on control device is eligible for tax exempt status, since the other components are essential to the operation of the manufacturing process alone. If the facility must replace the original fan with a higher pressure fan to properly operate the new, add-on control device (such as a scrubber), both the new add-on control device and the new fan are eligible for tax exempt status, since the higher pressure fan is itself essential to the proper operation of the control device and is not essential to the operation of the process alone.

Property

Company D injects lime slurry into a boiler exhaust to remove sulfur dioxide and uses a fabric filter to collect the resulting calcium sulfate. The fabric filters are expected to wear out and need replacement every two years, based on the manufacturer's experience. The lime handling equipment is deemed to be property (and thus is eligible), since it is tangible and durable. The lime itself is not deemed to be property (and thus is ineligible), since it is intentionally consumed in the process. The fabric filter bags are also not property (and are thus ineligible), since they are expected to routinely wear out and be replaced.

VII. EXAMPLES RELATED TO SPECIFIC TYPES OF EQUIPMENT/FACILITIES

Italicized words in the examples below have the meaning given in Section IV above. These examples are provided for instructional purposes only and may not apply in all cases, since differences in installation and operating scenarios cannot all be contemplated.

Low NO_x burner

Low NO_x burners are by their nature air pollution *prevention* devices and are eligible for certification.

Dry cleaning machine

The portion of the machine that performs the dry cleaning of clothing is considered to be commercial equipment and is ineligible, since its *primary* purpose is not air pollution *abatement*. However, devices used to prevent the dry cleaning solvent vapors from escaping the machine or to reduce solvent emissions (such as a condenser or carbon adsorber) are considered to be used for the *primary* purpose of air pollution *abatement* and are eligible. These include primary & secondary vapor control systems, drying sensors that automatically control the dry cycle by monitoring the solvent recovery process, door locking mechanisms that prevent the loading and unloading door of the dry cleaning machine from opening before the end of the dry cycle, and monitors inside the machine drum and interlocking systems to ensure that the solvent vapor concentration is

below safe levels before the loading door can be opened. The applicant must identify in the application the particular components of the dry cleaning machine which perform the primary role of air pollution abatement or prevention.

Manufacturing process condenser

A device which is necessary for containment of an air pollutant (such as a VOC solvent or other chemical material) inside a vessel to ensure proper operation of a manufacturing process (such as a condenser) is not eligible, since it is an essential part of the production equipment and is not *primarily air pollution control equipment* (i.e., without the device, the solvent or other material inside the vessel would soon evaporate completely, and the process would no longer operate properly). However, a device used in a secondary role to reduce air emissions (such as a second condenser or a carbon adsorber) and which itself is not essential to the proper operation of the production equipment is considered to be used for the *primary* purpose of air pollution *abatement* and is eligible.

Secondary combustion chamber on a process combustion device

If the combustion chamber is used to reduce air pollutant emissions and is not itself essential to the operation of the process combustion equipment, it is considered to be used for the *primary* purpose of air pollution *abatement* and is eligible. Examples would be a secondary combustion chamber on a waste incinerator, crematory or curing oven.

Air pollution incinerator, with or without heat recovery

If the device is to be used for the *primary* purpose of air pollution *abatement* or *prevention*, it is eligible (along with any directly associated feed, drain and control systems). An example would be an incinerator or thermal oxidizer treating VOC emissions from a curing oven, painting or printing operation.

Solid waste incinerator used for waste disposal, with or without heat recovery

Such devices are considered to be production equipment in the context of the air regulations and are ineligible, since their *primary* purpose is not air pollution *abatement*. However, such devices may be eligible for special tax treatment for solid waste disposal or recycling equipment under other provisions of Virginia tax code. The applicant should contact DEQ's Waste Division for the current tax exemption procedures and guidance.

Buildings and foundations

If these structures meet the definition of *facility* above, then they are eligible for tax exempt status, since their only (and thus *primary*) purpose is air pollution *abatement* or *prevention*. However, these items would be ineligible if they support or house other equipment that does not abate or prevent air pollution and does not qualify for tax exempt status under §58.1-3660, since they then would be essential to some other non-exempt purpose, and their *primary* purpose would no longer be air pollution *abatement* or *prevention*.

Emissions monitoring or measuring equipment and associated data handling systems

Such systems which directly measure pollutant emissions from a process, but whose instantaneous readings are not used to directly control associated air pollution abatement

or prevention equipment so as to ensure its proper operation at that moment (such as NO_x or SO₂ CEMS on Acid Rain sources), are not eligible for tax exemption certification, since they are ancillary to the abatement or prevention activity and their *primary* purpose is not air pollution *abatement* or *prevention*. Likewise, systems which continuously measure oxygen or carbon dioxide in combustion process exhausts (typically for large boilers and turbines) and whose measurement results are used merely for computational purposes to correct other measured pollutant levels to standard conditions, are also not eligible. However, systems which directly measure pollutant emissions from a process and whose instantaneous readings are used to directly control or adjust the process equipment (either automatically or manually) so as to maintain proper operation with respect to air pollution requirements or limitations (such as continuous opacity monitors used to detect improper combustion or exceedance of a numeric opacity limitation) are eligible, since their *primary* purpose is air pollution *abatement* or *prevention*.

Equipment dedicated or restricted to environmental uses, but which itself does not abate or prevent air pollution

Examples of such items may include, but are not limited to, storage containers, buildings, areas within buildings, supporting structures, supporting equipment, steam or hot water boilers, vehicles, boats and other watercraft, air conditioners, space heaters, uniforms, clothing, safety supplies, office supplies, field measuring equipment, radios, and computers. Such items are not eligible for tax exemption certification, since they are ancillary to the abatement or prevention activity and their *primary* purpose is not air pollution *abatement* or *prevention*.

APPENDIX A

Code of Virginia

Title 58.1 – Taxation, Chapter 36 - Tax Exempt Property

§ 58.1-3660. Certified pollution control equipment and facilities.

A. Certified pollution control equipment and facilities, as defined herein, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other such classification of real or personal property and such property. The governing body of any county, city or town may, by ordinance, exempt or partially exempt such property from local taxation.

B. As used in this section:

"Certified pollution control equipment and facilities" shall mean any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying authority having jurisdiction with respect to such property has certified to the Department of Taxation as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination. Such property shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, or fuel, whether or not such property has been certified to the Department of Taxation by a state certifying authority.

"State certifying authority" shall mean the State Water Control Board, for water pollution; the State Air Pollution Control Board, for air pollution; the Department of Mines, Minerals and Energy, for coal, oil, and gas production, including gas, natural gas, and coalbed methane gas; and the Virginia Waste Management Board, for waste disposal facilities, and shall include any interstate agency authorized to act in place of a certifying authority of the Commonwealth.

APPENDIX B

Templates

Example Letter of Application template

Tax Exemption Certification Checklist

Example Notice of Deficiency template

Example Notice of Certification template

Example Notice of Denial template

EXAMPLE LETTER OF APPLICATION

(No specific format for an application is required. However, the information contained in this example and the certification statement are required for an application to be deemed complete.)

[Replace text shown in square brackets as necessary]

Date

_____, Director

Regional Office
Virginia Department of Environmental Quality
Street Address
City, VA Zip

Re: §58.1 – Taxation
Application for Tax Certification of Air Pollution Control Equipment and Facilities

Dear _____:

Section 58.1-3660 of the Code of Virginia specifies the requirements for certification of equipment and facilities used primarily for the purpose of abating or preventing pollution of the atmosphere. [Owner name] hereby requests tax exemption certification pursuant to §58.1-3660 for the air pollution control equipment and facilities described below:

(1) Owner Name, Address and Federal I.D. Number or SSN

[Indicate ownership of this equipment/facility.]

(2) Project Name

[Provide a unique identifying name for this project.]

(3) Equipment/Facility Description

[Provide the functional name of the air pollution abatement or prevention equipment subject to this request, and state its specific purpose. Provide or attach a list of equipment items or categories of equipment included in this request. Identify any project name or other name commonly used to identify the specific facility or activity. Provide a sketch, drawing or flowsheet if necessary for clarification.]

(4) Physical Location of Equipment/Facility and Related DEQ Registration Number

[Identify the exact location of this equipment/facility. Provide the DEQ registration number for this location, if one has been assigned, or indicate “None Assigned.”]

(5) Air Pollutants Abated or Prevented

[Identify each specific pollutant name or chemical name.]

(6) State Program or Requirements Applicable to the Equipment/Facility

[Identify all applicable state and federal regulations and all state and federal air permits which impose(d) air emission abatement or prevention requirements on this equipment/facility at the time of its acquisition. Regulations may be cited by major group, where feasible, for brevity [e.g., 9VAC5-80 et seq., NSPS Subparts Dc and Kb, MACT Subpart S, DEQ NSR Permit dated mm/dd/yyyy, etc.]

(7) Statement of Conformity

[Clearly state whether the equipment/facility was or will be in conformity with all applicable state environmental program requirements at the time of its acquisition or construction.]

Please provide us with a copy of your agency's certification to the Virginia Department of Taxation.

Application Certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. I am authorized under 9VAC5-20-230 of the Virginia Regulations for the Control and Abatement of Air Pollution to sign this Application.

Sincerely,

(must be signed by a responsible official)

[Name]

[Title]

TAX EXEMPTION CERTIFICATION CHECKLIST

This checklist is required to be completed for each application for tax exemption certification and is to be retained in DEQ files with the file copy of the application. This form must be signed below by a DEQ employee authorized under DEQ's current "Delegations of Authority" policy for Tax Certifications, at a minimum.

Application Identification	
Date of Application:	Date Received:
Owner Name:	
Owner Address:	
Owner FIN/SSN:	DEQ Registration Number:
Project Name:	
Equipment/Facility Description:	
Equipment/Facility Physical Location:	

Evaluation	
<i>(Explain any 'No' answers. If there are any 'No' answers, Certification should be denied, or additional information should be requested from the applicant before proceeding.)</i>	
Are the affected air emissions adequately identified or otherwise known to DEQ?	<input type="checkbox"/> Yes / <input type="checkbox"/> No:
Do the air emissions meet the Virginia definition of "pollutants"?	<input type="checkbox"/> Yes / <input type="checkbox"/> No:
Does the requested equipment/facility meet the definition of "real or personal property"?	<input type="checkbox"/> Yes / <input type="checkbox"/> No:
Is the requested equipment/facility used "primarily for the purpose of abating or preventing" air pollution?	<input type="checkbox"/> Yes / <input type="checkbox"/> No:
Does the applicant state that the equipment/facility was constructed "in conformity with the state program or requirements" for air pollution abatement or control?	<input type="checkbox"/> Yes / <input type="checkbox"/> No:
Do DEQ compliance records verify conformity with the Virginia air pollution abatement or control program or requirements?	<input type="checkbox"/> Yes / <input type="checkbox"/> No:
Where an air permit is required, has the time period within which an appeal must be filed (typically 30 days) expired yet?	<input type="checkbox"/> Yes / <input type="checkbox"/> No:
Do you believe you have sufficient information on this proposal to judge whether tax certification should be approved or denied?	<input type="checkbox"/> Yes / <input type="checkbox"/> No:
Does the application contain a certification statement meeting all the requirements of 9VAC5-20-230?	<input type="checkbox"/> Yes / <input type="checkbox"/> No:

Staff Recommendation	
<input type="checkbox"/> Staff recommends that the attached application for tax exemption certification be approved.	
<input type="checkbox"/> Staff recommends that the attached application for tax exemption certification be denied.	

Evaluated by: Printed Name: Date:	Approved by: Printed Name: Date:
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EXAMPLE NOTICE OF DEFICIENCY

(Must be printed on DEQ Letterhead)
[Replace text shown in square brackets as necessary]

Date

[Applicant/Owner Name]
[Company]
[Address]
[City, VA Zip]

Re: Application for Tax Certification of Air Pollution Control Equipment and Facilities
[Name of Equipment/facility or Project]

Dear [Name]:

This is to advise you that the Department of Environmental Quality has received your application for certification dated [date]. In accordance with Code of Virginia §58.1-3660 (“Tax Code”), the Department on behalf of the State Air Pollution Control Board reviews requests for certification of air pollution control equipment and facilities. Also in accordance with the Tax Code, such equipment and facilities must be used primarily for the purpose of abating or preventing pollution of the atmosphere of the Commonwealth and must meet the requirements contained in applicable Virginia air laws and regulations and any facility permit(s).

Your response to the following is required in order to complete the evaluation of your application:

1. [list separately and explain/do not number if only one item listed]
2. [explain/delete if not necessary]

Please provide the requested information within 30 days of the date of this letter. Your application will be held until that time pending your response. If we do not receive a response from you, DEQ may elect to issue a Notice of Denial. If you have any questions, please do not hesitate to contact [staff person’s name] of DEQ's [name] Regional Office at [xxx-xxx-xxxx].

Sincerely,

[DEQ staff person’s name]
[Title]

EXAMPLE NOTICE OF CERTIFICATION

(Must be printed on DEQ Letterhead)
[Replace text shown in square brackets as necessary]

Date

Ms. Sheila B. Wallace
Virginia Department of Taxation
Customer Services
Post Office Box 1115
Richmond, Virginia 23218-1115

RE: Tax Certification
Owner Name:
Project Name and Location:
Owner FIN/SSN:
Date of Application:

Dear Ms. Wallace:

In accordance with the Code of Virginia §58.1-3660 the Department of Environmental Quality hereby certifies to the Department of Taxation that the air pollution control equipment and facilities listed below and identified in the enclosed application for the above-referenced project constitute property which has been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of atmospheric pollution or contamination:

1. [list separately/do not number if only one item listed]

(Use only if necessary) [The following equipment or facilities are excluded from the above certification:]

1. [list separately/do not number if only one item listed]

If we may be of further assistance, please do not hesitate to contact [staff person's name] of DEQ's [name] Regional Office at [xxx-xxx-xxxx]. Any further action or decision regarding this project is a matter for your office.

Sincerely,

[DEQ Authorized Person]
[Title]

Enc.: Original Application
cc w/o enc.: [Owner/Applicant]

EXAMPLE NOTICE OF DENIAL

(Must be printed on DEQ Letterhead)
[Replace text shown in square brackets as necessary]

Date

[Applicant/Owner Name]
[Company]
[Address]
[City, VA Zip]

Re: Application for Tax Certification of Air Pollution Control Equipment and Facilities
[Name of Equipment/facility or Project]

Dear [Name]:

This is to advise you that the Department of Environmental Quality has received your application for certification dated [date]. In accordance with Code of Virginia §58.1-3660 (“Tax Code”), the Department on behalf of the State Air Pollution Control Board reviews requests for certification of air pollution control equipment and facilities. Also in accordance with the Tax Code, such equipment and facilities must be used primarily for the purpose of abating or preventing pollution of the atmosphere of the Commonwealth and must meet the requirements contained in applicable Virginia air laws and regulations and any facility permit(s).

The Department hereby denies certification of the above-referenced application for the following reason(s): [modify or delete below as necessary]

1. [The described equipment is not used primarily for the purpose of abating or preventing pollution of the atmosphere of the Commonwealth. (Explain)];
2. [The described equipment was not constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of atmospheric pollution or contamination. (Explain)];
3. [The described materials do not constitute real or personal property, equipment, facilities, or devices, within the scope of §58.1-3660 of the Code of Virginia. (Explain)];

Your application and other submitted information are being returned to you. If you desire to modify your request for tax exemption certification, please submit a new, complete application to this office. If you have any questions, please do not hesitate to contact [staff person’s name] of DEQ's [name] Regional Office at [xxx-xxx-xxxx].

Sincerely,

[DEQ Authorized Person]
[Title]

Enc.: Original Application